

TAB 99

Jockeys circulate petition for Guild audit

by LIZ MULLEN

Staff writer

Published Oct. 25, 2004 in SportsBusiness Journal

More than 100 jockeys at racetracks nationwide signed a petition last week calling for an independent audit of the Jockeys' Guild, as a growing number of riders expressed concerns about the finances of the organization and their lack of adequate insurance coverage while racing.

The Breeders' Cup and Lone Star Park last week were working on securing an insurance policy with coverage of at least \$500,000 for catastrophic accidents for jockeys riding during the championship day Saturday. The announcement came after Hall of Fame jockey Gary Stevens said he would not ride in any state — including Texas, where Lone Star is based — that did not completely cover jockeys for accidents on the racetrack.

Only New York, California, New Jersey, Maryland and Idaho have workers' compensation insurance that covers jockeys. All other tracks have coverage, but only up to \$100,000. "It certainly is an issue that had come to the forefront in the last couple of weeks, and everybody wanted to make sure the Breeders' Cup World Thoroughbred Championships was covered," said Breeders' Cup spokesman Chip Tuttle.

In jockeys' rooms across the country, riders have been raising questions about insurance and the Jockeys' Guild finances, since they learned that Gary Birzer, a West Virginia rider paralyzed in a July race, is covered only for \$100,000, while his medical bills have grown beyond \$500,000.

Some jockeys have stated that the Guild won't give them any financial information. One board member said he has been trying for more than a year to find out whether \$1 million was moved out of the Disabled Jockeys Fund, a Guild-run charity.

"They have been keeping everyone in the dark for a long time," said Marguerite Davis, wife of Guild member and former board member Robbie Davis, who has been faxing the petition across the country. As of late last week, 109 jockeys at seven racetracks had signed it.

Neither Guild President Wayne Gertmenian nor Vice President Albert Fiss returned phone calls for this story.

But Fiss told the Thoroughbred Times, a racing trade publication, that jockeys at Santa Anita Park and Calder Race Course ripped up the petition and threw it away without signing it.

Calder-based jockeys Gary Boulanger and Phil Teator said they don't believe that happened.

Jockey Paul Atkinson, based at Southern California's Santa Anita, said no one ripped up the petition and that he and other jockeys are angry about the comment because it made it appear that they were not supporting the jockeys who signed it. "I was so flipping mad," said Atkinson, "and I know of two other jockeys who flat out came out and told me it was a lie."

The Santa Anita riders are still deciding whether to sign the petition, he said.

Guild board member and Santa Anita-based jockey Kent Desormeaux said he will suggest to the Guild board that "we move to a new auditing firm," and expressed concern about how financial

questions could affect donations to the Guild's charities for permanently disabled riders. "When corporate America wants to make a donation to our disabled riders funds, for the guys who are in wheelchairs for doing what we do ... I want them to make a donation with a smile on their face knowing that money will go to the disabled riders," he said.

Ron Turcotte, the jockey who won the Triple Crown on Secretariat in 1973 and was paralyzed in a track accident in 1978, said he supports an audit of the Guild.

Turcotte said he was given false information about the Disabled Jockeys Endowment by a Guild official in August, when he appeared at a ceremony to receive \$200,000 on behalf of the charity. Turcotte said a Guild official gave him a piece of paper stating that charity had \$1.25 million in assets, which Turcotte announced on TV, only to find out later that was not true. "I feel bad that I misled the people," he said.

Turcotte, 63, said he has been trying unsuccessfully for three years for documentation of a life insurance policy he has through the Guild.

TAB 100

Published Oct. 11, 2004 in SportsBusiness Journal

The Guild announced plans in late 2001 to eventually replace the Disabled Jockeys Fund with the Disabled Jockeys Endowment. The endowment is not supposed to be used to pay for riders'

needs until its assets hit \$10 million, at which point interest and earnings on the principal are expected to meet expenses. The one publicly available tax return for the endowment, filed at the end of 2002, reports assets of just more than \$108,000. David Woodcock, the endowment board chairman, said assets were at just more than \$1 million last month.

Gertmenian, in an interview earlier this year, said the Disabled Jockeys Fund account balance was "close to zero." In that interview, he said the Guild keeps putting money into the Disabled Jockeys Fund while trying to build the endowment. "It's a race against time," he said.

Disabled Jockeys' Fund assets

According to the latest publicly available tax forms, the assets of the Disabled Jockeys Fund rose steadily every year, from \$547,087 in 1997 to \$1.327 million in 2001 (see chart). But in 2002, the first full year after Gertmenian took over, the assets plummeted by almost \$900,000 to \$440,888. That was the same year King says Gertmenian asked to take \$1 million out of the fund.

Year end	Assets
1997	\$547,087
1998	\$819,183
1999	\$1,011,703
2000	\$1,215,424
2001	\$1,327,083
2002	\$440,888
2003	NA

The 2002 return for the fund does not show a transfer of \$1 million. What it does show, however, is that benefits paid out to disabled jockeys nearly quintupled from \$168,753 in 2001 to \$835,815 in 2002.

Swan said she did not know why the expenses of the fund increased by so much.

Source: IRS Form 990

Donahue, shown a copy of the 2002 return, also could not explain the increase, although he approves the payouts. "That is curious," he said. "I really have no idea."

Board member Abad Cabassa said, "There are questions out there that need to be answered that concern me, and I will do everything in my power to look into these questions and see that we get satisfactory answers."

Another board member, Hall of Fame jockey Kent Desormeaux, said, "I can just tell you that I am trying to do the due diligence needed to assure my peers that everything is as it should be."

Gertmenian, a Pepperdine University professor, and his company, Matrix Capital Associates, were installed to run the Guild after a volatile board meeting in June 2001 in which five of the nine directors signed a document replacing the former Guild president, John Giovanni. The four members who did not sign, including Hall of Fame jockeys Pat Day and Jerry Bailey, have since resigned.

The board member who led the charge to replace Giovanni, Hall of Fame jockey Chris McCarron, is no longer speaking to Gertmenian, and had a public argument with Gertmenian in the jockeys room at Santa Anita racetrack in 2003, sources said.

McCarron, now the general manager of Santa Anita racetrack after retiring from riding and the Guild, said that account is correct, but that "I would rather not discuss that other than to say I think Robert Colton was treated poorly."

Colton was another of the five-board-member group that hired Gertmenian in 2001. When he retired from riding in 2002, Colton became a Guild employee in charge of finances.

The Guild has filed a lawsuit against Colton alleging, among other things, that he made false allegations about Gertmenian at an emergency board meeting without providing any evidence.

Colton countersued, stating that he discovered financial improprieties, but could not provide evidence at the meeting because Swan, the Guild chairwoman, closed the Guild's financial records. Colton, Gertmenian and the Guild all deny wrongdoing.

Meanwhile, jockeys are in an uproar since finding out that Gary Birzer, a West Virginia rider who was paralyzed from the waist down in a July racing accident, is not covered for most of his medical bills, about \$500,000 and climbing.

Tracks provide insurance coverage of up to \$100,000. Only five states — California, New York, New Jersey, Maryland and Idaho — have workers' compensation insurance for racetrack accidents.

Well-known Kentucky-based jockey Shane Sellers announced last week that he was retiring because of the insurance issue, saying he could not play "Russian roulette" with his family's financial future.

Gertmenian told the Thoroughbred Times this month that it was "mind-boggling" that some jockeys were not informed of their insurance situation. "The whole reason the old group was asked to step aside and our group was brought in was because of the lapse in insurance coverage," he said.

Giovanni said last week that while a medical policy that covered jockeys for track accidents did lapse in 2001, he bought a special one-year policy just to cover track accident-related medical bills up to \$1 million.

After Gertmenian was installed at the Guild, he obtained a new medical policy, but it did not cover on-track accidents.

Guild employee and vice president Albert Fiss sent a letter on March 29, 2002, to general managers of all U.S. racetracks, telling them that the on-track accident policy would expire on April 1, 2002. Fiss did not return a phone call to comment on the letter, which was obtained by SportsBusiness Journal.

Although tracks were informed, many jockeys said they never got official notice that the policy was expiring.

Robbie Davis, a retired jockey who was on the Guild board in 2002, said he never recalled the Guild sending any notice to jockeys about the coverage.

Reigning Jockey of the Year Jerry Bailey said he remembers hearing through the grapevine that the policy had expired and asking Gertmenian about it during Belmont Stakes week in June 2002. "First [Gertmenian] told me, 'It's in effect,'" Bailey recounted last week. But two days later, when he asked Gertmenian the same question again, "He said, 'You are right. We are trying to reinstate it.'"

Jockeys are not the only ones asking questions of the Guild. The state of California, which has set aside money for health and welfare benefits for California jockeys, is withholding about \$1 million from the Guild until it is satisfied with a financial accounting from the organization. California recently received audits of money the Guild spent on jockeys in the state, after waiting

for audits for about a year and a half, said John Reagan, senior management auditor for the California Horse Racing Board.

Reagan said California jockeys have approached him, complaining about not being able to get information from the Guild. "I think the jockeys are more concerned about the lack of information and the fact that no one will be straight with them than what the facts are."

TAB 101

Jockeys questioning insurance

by LIZ MULLEN

Staff writer

Published Sep. 27, 2004 in SportsBusiness Journal

The problems facing a jockey who was paralyzed in an accident at a West Virginia racetrack are raising an alarm among jockeys nationwide who have discovered that their medical bills wouldn't be covered in most states if they suffered a catastrophic injury while racing horses.

A group of top riders at Belmont Park in New York called a meeting with Jockeys' Guild representatives late last week to get information about their coverage after learning that jockey Gary Birzer's medical bills, which now total more than \$400,000, are not covered by Guild insurance.

Only five states — California, New York, New Jersey, Maryland and Idaho — have workers' compensation insurance that covers jockeys who suffer accidents on the track.

Jockeys in New York are concerned because they routinely travel to uncovered states to ride in major stake races, said Jose Santos, a New York-based jockey who won the Kentucky Derby and Preakness last year on Funny Cide.

"A lot of jockeys did not know they were not covered," said Santos, adding that he was one of them. "About half of the jockeys did not know. The reason [we found out] is because of Gary Birzer."

Rita Santos, Jose's wife and the sister of jockey Heriberto Castillo, said she called several jockeys in other states and discovered that they didn't know that they weren't covered for on-track accidents. Many expressed concern about riding in the Breeders' Cup next month at Lone Star Park in Texas. "I want all the jockeys in the United States to be aware they are riding in states with no coverage," she said.

Paul Atkinson, a Southern California jockey who has been a delegate to the Jockeys' Guild, said, "The riders in this country should be aware that they are not covered, but they're not."

Birzer, 29, was paralyzed from the waist down by a spinal cord injury when the horse he was riding July 20 in the seventh race at Mountaineer Park broke its leg and threw him. His wife, Amy Birzer, said her husband had for years paid the Jockeys' Guild \$10 for every mount he rode and thought that he was covered in case of injury. But that coverage only extends to non-work-related health issues. Guild officials said it was too expensive to get medical insurance for on-track accidents.

The Jockeys' Guild is an organization that represents 1,220 professional racehorse jockeys nationwide with the purpose of fighting for riders' rights as well as providing health insurance and other benefits. The Guild provides benefits to about 59 disabled jockeys who were injured in U.S. racetrack accidents over several decades.

Amy Birzer said Guild Vice President Albert Fiss first told her that the Guild would take care of her husband's medical bills, but later Fiss said the Guild couldn't cover the bills, after all, and refused to return her phone calls.

"I have been lied to, flat-out lied to," Amy Birzer said.

Birzer said she has since found out that although Mountaineer will pay up to \$100,000, she and her husband are on the hook for the additional \$300,000-plus, and the medical bills keep coming in.

Fiss did not return repeated phone calls. Wayne Gertmenian, president of the Jockeys' Guild, said no one from the Guild told Birzer's family that he was covered for the injury. The Birzers have health insurance through the Guild, but it does not cover on-track accidents, he said.

"What I said [to Amy Birzer] was, I will do everything I can, and I will if it has to come out of my own pocket," Gertmenian said. "I knew this day was coming and I told everyone this day was coming, and now hell comes to pay."

The Birzers are getting \$200 a week for living expenses from the Guild, but that will drop to \$250 a month once he is declared permanently disabled and starts receiving federal benefits. The Guild will then pay for medical insurance for Amy Birzer and the couple's 2-year-old daughter, but not for the jockey himself, Gertmenian said.

Gertmenian said he has been "screaming" since he took over the Guild in 2001 that jockeys in most states were not covered for such accidents.

"He hasn't been screaming loud enough," Amy Birzer said.

Birzer said it made her husband feel better to know that at least now other jockeys know about their lack of medical coverage.

"That is what I wanted," she said. "For people to know so that this won't happen again."

TAB 102

Business First of Louisville - May 17, 2004
<http://louisville.bizjournals.com/louisville/stories/2004/05/17/story3.html>

BUSINESS FIRST

GREATER LOUISVILLE'S DEFINITIVE SOURCE OF LOCAL BUSINESS NEWS



Web exclusive
Hottest job markets
Bizjournals ranks the best and worst big-city job markets across America.
» [Find out more](#)
» [The 10 hottest job cities](#) | » [The 10 coldest job cities](#)

EXCLUSIVE REPORTS

From the May 14, 2004 print edition

NTRA wants jockey advertising issue on fast track

Liz Mullen and John R. Karman III

A Business First report

The National Thoroughbred Racing Association has pushed jockey advertising to the top of its priority list and wants tracks, sponsors, racehorse owners and jockey representatives to gather in the next few weeks to work out rules that will benefit the riders while protecting existing sponsors.

"This is a workout-able problem," said Chip Campbell, senior vice president of sponsorship sales for the NTRA, a broad-based coalition of horse racing interests charged with increasing the popularity of the sport and improving economic conditions for the industry.

The association has offices in Lexington, Ky., and New York City.

Several jockeys wore advertising on their pant legs during the May 1 Kentucky Derby at Churchill Downs. Those deals did not conflict with sponsors of the racetrack's parent company, Churchill Downs Inc., or the Triple Crown.

However, one was a competitor of NetJets Inc., a sponsor for the NTRA and the Breeders' Cup World Thoroughbred Championships, Campbell said.

NetJets, based in Woodbridge, N.J., is a private air travel provider.

Jockeys Edgar Prado and John Velazquez wore ads for NetJets rival Fort Lauderdale, Fla.-based SmartJets during the race.

"One of our sponsors was ambushed bad," Campbell said.

"I am sure they are not happy, and I wouldn't be happy either if I were them," he added, referring to NTRA sponsor NetJets.

But Chip Gesner, president of SmartJets, said he does not see a conflict. "NetJets has an agreement with the NTRA, which, to my understanding, doesn't control the Kentucky Derby," Gesner said.

He noted that a number of top jockeys have worn the SmartJets logo on their pants during some of the major horse races this spring, and there have been no complaints.

A phone inquiry to NetJets was not returned by press time.

Churchill officials 'more than willing' to participate in dialogue

Churchill Downs issued house rules prohibiting jockeys from wearing ads for sponsors that compete with the track's and the Triple Crown's sponsors. But Campbell said he wants to talk to tracks about honoring not only their local sponsors when developing house rules prohibiting competing advertising for jockeys, but national NTRA sponsors, as well.

He noted that NTRA sponsors help pay for putting numerous horse racing events on television during the year, and the Breeders' Cup contributes to purses of many major races at tracks across the country.

"This is something we need to get resolved before the next month," Campbell said. "We ought to have different points of view on these meetings."

Steve Sexton, president of Churchill Downs racetrack, said that representatives of all six of the tracks in the company's stable "are more than willing to participate in any of the discussions that (the NTRA) can pull together from an industry standpoint."

"We understand some of the NTRA's concerns about their existing sponsorships but also appreciate the individual or collective group of jockeys' desire to pursue sponsorship opportunities," he added.

While he said he is hopeful that discussions with the NTRA on the issue of jockey advertising will alleviate industry concerns in coming weeks, Sexton stressed that Churchill's "main focus" is protecting its own sponsors.

Marketing agent not expecting problems during Preakness

Kelly Wietsma, who acted as a marketing agent for eight jockeys who rode and wore advertising logos at Churchill Downs on Derby Day, said she also would participate in such a meeting.

Wietsma said she plans to get deals for some of the jockeys who will be riding in the Preakness Stakes, the second jewel of the Triple Crown, this Saturday. But she could not name specific deals last week.

Wietsma said she has talked to officials at Baltimore's Pimlico Race Course, home of the Preakness, about jockey advertising and does not anticipate a problem. Pimlico officials could not be reached for comment.

Meanwhile, the Maryland Jockey Club, which operates Pimlico, this week released a list of house rules for Preakness riders. The rules stipulate that jockeys "will be permitted to wear advertising on their breeches and neckwear, as long as it does not conflict with current advertisers and sponsors of the MJC or the Triple Crown, and must be approved at least 48 hours before the race."

Maryland Jockey Club rules also ban ads on jockeys for bail bondsmen, check-cashing services, high-risk lending services and various gaming companies.

Wrangler representative says company supporting 'jockeys' right'

Robin Rich, senior marketing communications manager for Wrangler Co.'s western wear division, which sponsored jockeys Jerry Bailey and Shane Sellers on Derby Day, said she would be glad to discuss the jockey advertising issue with the NTRA.

Rich said she understands the NTRA's concerns about its existing sponsors. But she added that Wrangler is "thrilled" with the exposure it has gotten through its association with jockeys, since the company designs jeans especially for horseback riding.

"What we are doing is we are supporting these jockeys' right to be treated like athletes in other high-profile sports," Rich explained.

Advertising seen as providing 'opportunities' for riders

Sexton, of Churchill, said that officials with the Louisville-based horse-racing company recognize that there are "opportunities" for riders, provided advertisements don't conflict with the wishes of horse owners or an individual track's existing sponsors.

He added that Churchill officials had "a good, positive dialogue" about the advertising issue with jockeys in the weeks leading up to the Derby but had hoped to have things resolved prior to the week of the race.

"On one side, you could say the awareness helped the Derby because it was just another thing to talk about," he explained. "But, ideally, we'd be talking about the Derby itself because we had some amazing stories with (undefeated Derby winner) Smarty Jones being the obvious one."

Liz Mullen is a staff writer for Street & Smith's SportsBusiness Journal, a sister publication to Business First. John Karman is a Business First staff writer. He can be reached at jkarman@bizjournals.com.

© 2004 American City Business Journals Inc. [XML](#) [Add RSS Headlines](#)

Now Hiring
Brooke Insurance
Agency Ownership
Opportunity
Market Access
Access to Capital
Start-up Assistance
Operational Training and Support
Advertising and Marketing Co-Op



[»View all jobs from this company](#)

Today's Featured Jobs powered by bizjournalsHire

- [Engineering - LINAK U.S. Inc.](#)
- [Chief Financial Officer CFO - Unified Financial Officer](#)
- [Sr Tech Support Engineer I - Raytheon Company](#)
- [Production Control Supervisor \(1\) - ACS](#)
- [Senior Airport Engineer - The Corradino Group](#)

[More Local Jobs](#)

[→ Post Jobs](#) | [→ Post Your Resume](#) | [→ Search Jobs](#)

All contents of this site © American City Business Journals Inc. All rights reserved.

TAB 103

Finances put jockey guild in turmoil

by LIZ MULLEN

STAFF WRITER

Published Jul. 09, 2001 in SportsBusiness Journal

A power struggle that erupted behind the closed doors of the Jockeys' Guild involves some of the nation's most famous jockeys and centers on financial problems that have left hundreds of riders competing without basic health insurance.

Hall of famer Pat Day has resigned as president of the guild, and other members of the executive board, including reigning Jockey of the Year Jerry Bailey, are considering leaving after the guild staff was ousted, the locks were changed at the Lexington, Ky., office and a new leadership group was installed.

Protesting jockeys were concerned after members of the executive board, led by all-time leading money-winner Chris McCarron, fired the longtime staff of the guild and replaced it with Matrix Capital Associates.

There was widespread dismay that the old staff let the health insurance expire because it was unable to pay premiums after a 43 percent increase.

Bailey and others said that while there was a unanimous consensus on the nine-member executive committee that changes had to be made, there was never an official vote to replace the staff with Matrix.

Bailey added that Matrix officials and its leader, Pepperdine University Professor L. Wayne Gertmenian, have refused to answer questions about their qualifications to run the multimillion-dollar organization.

"If my concerns go unanswered, I might leave the executive board," said Bailey.

Meanwhile, jockeys at the nation's horseracing tracks are riding without health insurance because they can't afford the increased price of the COBRA federal safety net insurance program, said Robert Colton, a jockey who is a member of the executive board.

Only 10 to 20 percent of 650 eligible jockeys have paid for it, Colton said.

Although racetracks provide medical coverage of up to \$100,000 for riding accidents, many small-time jockeys are in desperate need of general health insurance, Colton said. "They are calling and crying on the phone that their husband has cancer; their baby was run over; and one needs a heart operation, and they don't have insurance."

Colton and Hall of Fame jockey McCarron were part of the guild's executive committee who urged other members, during a volatile conference call on June 15, to fire the longtime staff and replace it with Matrix.

McCarron did not return repeated phone calls.

Colton said the guild board had to take a "sudden action" since the health insurance was

canceled and jockeys at some tracks stopped paying their dues.

But some board members on the conference call said the action was taken without an official vote and despite a call for more information about Matrix and Gertmenian.

Jerry Bailey was vocal, according to board member Tony Black. But other board members "tried to shoot down or discredit what Jerry was saying."

Black said he too is thinking of leaving the guild because he can't get information about Matrix and Gertmenian. "There is probably no large corporation that makes this type of important move that has the lack of information that we made it on," he said.

Day, who has been involved with the guild throughout his 27-year riding career, resigned less than a week after Matrix was brought in. "I resigned because there are distinct philosophical differences between myself and the new executive committee and that prohibits me from being a member," Day said

"I hope and pray that this company is able to do what they have convinced Chris [McCarron] they are able to do," said Day. He wouldn't elaborate further.

Bailey said, "I talked to Dr. Gertmenian himself and asked for a list of references and background material and got back one piece of paper which stated he worked for the Nixon administration, which is pretty skimpy. I asked him point-blank to provide some references and he said he could not provide them because they were confidential."

Gertmenian wouldn't provide any information to SportsBusiness Journal about himself, Matrix or his plan for fixing the guild. "I really do not wish to talk about my responsibilities at all," he said. "Our job is to see if we can't get insurance for them and we are doing the best we can."

Bailey said, "I thought that was an excellent idea ... but he didn't tell me where he was going to get the money."

Colton said he is satisfied with Gertmenian and Matrix's qualifications. He said he could not provide information on the companies he has been involved with because many are in China and Russia and he signed confidentiality agreements about his work.

But Marion McGovern, president of M2 (pronounced M squared), a San Francisco firm that brokers independent consultants, said, "The best consultants live by their last project. ... References are their stock in trade. I would be very concerned by his inability to provide references."

Gertmenian has at least a little experience in insurance. His friend and fellow Pepperdine professor, Roy Adler, said he was "the guiding force" behind a company called AmRus Life Insurance, founded in the mid-1990s to provide death benefits for Russian citizens. But Adler, who served as a consultant to AmRus, said the company never really got off the ground.

Thomas Brondum, who answered the phone at the Jockeys' Guild offices, said he is a retired Southern California aerospace company executive who was "brought in by Matrix to take control of the Jockeys' Guild."

Brondum said there was a unanimous vote of the executive board to terminate the Jockeys'

++
Guild staff and bring in Matrix. When told that one board member said the vote was not unanimous, Brondum said, "There was a unanimous vote that is on tape. After the vote some members started backpedaling."

Bailey, when asked again by e-mail about the vote, wrote back, "There was merely a consensus taken over the phone, no resolution, no second." He said in the earlier telephone interview that after the consensus was reached, all the members were faxed a resolution and five signed it and faxed it back. "As soon as the five signed, the Matrix Group took over."

Brondum said that Matrix is a West Coast organization of about 20 "high-powered" people with postgraduate degrees. "When a problem comes up Dr. G. pulls together a sub team and says, 'Go fix this.'"

Brondum wouldn't provide further information about Matrix, referring questions to a public relations specialist who did not provide answers to questions submitted by SportsBusiness Journal.